

The Orissa Gazette



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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 31st October 2008

No.11407-li/1 (B)-57/1994/LE.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award dated the 22nd October, 2008 in Industrial Dispute Case No. 151/2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s. Orissa Textile Mills Ltd., Choudwar, Cuttack and its workman Shri Harekrushna Swain was referred for adjudication is hereby published as in the scheduled below:—

SCHEDULE

IN THE INDUSTRIAL TRIBUNAL : BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 151 OF 2008

The 22nd October 2008

Present: Shri Purna Chandra Mishra, O.S.J.S. (Sr. Branch)

Presiding Officer,

Industrial Tribunal,

Bhubaneswar.

Between: The Managing Director,

M/s. Orissa Textile Mills Ltd.,

Choudwar, Dist-Cuttack

.. First—Party Management

And

Shri Harekrushna Swain,

At/P.O.- Olakana,

Via- Pipili, Dist- Puri, Orissa

.. Second—Party Workman

Appearances :

<u>None</u>	<u>.. For the First— Party Management</u>
Shri S. Mishra, Advocate	.. For the Second—Party Workman

AWARD

Originally the Government in the Labour & Employment Department had referred the following dispute for adjudication by the Presiding Officer, Labour Court, Bhubaneswar vide its Order No.13328-li/1-(B)-157/1994/LE., dated the 16th October 1997 but subsequently it transferred the dispute to be adjudicated by the Industrial Tribunal, Bhubaneswar vide its Order No. 4138-li/21-32/2007/LE., dated the 4th April 2008.

“Whether the termination of services of Shri Harekrushna Swain, T. No. 1832 of Ring Frame ‘B’, Spinning Department of the Orissa Textile Mills Ltd., Choudwar, Dist-Cuttack with effect from 1st December 1984 by alleged illegal retirement from service is legal and/or justified ? If not, to what relief he is entitled ?”

2. This case of the Second Party Workman in brief is that he was working under the Management in its Spinning Department and was a permanent worker. At the time of his entry into service, he furnished his date of birth as 1932 and accordingly the same was mentioned in the declaration forms of the E.S.I. and E.P.F. It is pleaded that as per the Certified Standing Orders of the Company, he was to retire at the age of attaining 58 years i.e., in the year 1990. But the Management without looking to the records retired him from employment with effect from 1st December 1984 and such intimation was communicated to him immediately before his retirement giving no scope to the workman to represent against such action. However, after his retirement, he made several representations to the authorities, but the Management paid a deaf ear and did not consider his grievance. Lastly, he raised a dispute and on failure of conciliation, the present reference was made. The Workman has prayed to answer the reference in his favour by declaring the retirement to be premature and illegal and for his reinstatement in service till he attains the age of retirement in the year 1990 with full back wages and other benefits.

3. Despite notice, the Management did not appear nor filed any written statement in the proceeding. Accordingly, vide Order No.13, dated the 11th January 2001 it was set *ex parte*.

4. In the *ex parte* hearing, the Workman examined himself and brought on record as many as eight documents, which have been marked as Exts. 1 to 8.

5. In his evidence, the Workman has stated on oath that he joined service in the year 1952 as a Single Piecer and subsequently he became a Double Piecer. He deposed that at the time of joining service he had shown the horoscope to the Management and

accordingly his date of birth was entered as 1932. Ext.1, the copy of the horoscope indicates that the date of birth of the Workman is 24th February 1932. In the E.S.I. Card, the copy of which has been marked as Ext. 2, the year of birth of the Workman is also mentioned as 1932. He deposed that he worked continuously till 30th November 1984 and on 1st December 1984 he was retired by the Management although he was due to retire in the year 1990. He has proved the retirement notice dated the 20th September 1984 marked as Ext.3. He proved Exts. 4,5,5/a,6,7 and 8, the copies of representations addressed to different authorities including the Management regarding his premature retirement. Lastly, he deposed that the action of the Management in retiring him from service with effect from 1st December 1984 being illegal, he is entitled to full back wages and other service benefits as if he was in employment from 1984 till 1990.

6. The unchallenged evidence of the Workman leads me to arrive at the conclusion that the date of birth of the Workman is 24th February 1932 and accordingly he was due to retire from service in the year 1990 on attaining the age of Superannuation i.e. 58 years. The action of the Management is therefore held to be illegal and consequently the Workman is entitled to wages and other benefits, treating as if he was in employment, from 1st December 1984 till the date of his normal Superannuation in the year 1990.

The reference is answered accordingly.

Dictated and corrected by me.

Purna Chandra Mishra
Dt. 22-10-2008
Presiding Officer,
Industrial Tribunal,
Bhubaneswar

Purna Chandra Mishra
Dt. 22-10-2008
Presiding Officer,
Industrial Tribunal,
Bhubaneswar

By order of the Governor
K.C. BASKE
Under-Secretary to Government